The following table is used to list comments for each rule and proposed actions taken by the Department. The symbol "∆" and corresponding "Yes" or "No" in the column is used to indicate if the Department made a change to the rule as a result of the comment from the stakeholder.

Rule	Party	∆	Comment
NR I	McKinstry		For definition of "buy down", request replacing financing with funding.
	DEQ	N	Statute states that guaranteed cost savings must pay for financing repayment obligation § 90-4-1102-1. Buy down is generally a payment for the portion of the project that is not financed.
NR I	Ameresco		The definition of "O&M" is not necessary because the statute defines O&M cost savings
	DEQ	N	O&M is not defined and is part of O&M cost savings; therefore it needs to be defined. The proposed definition of O&M was taken from the FEMP O&M best practices.
NR I	DEQ	Y	Added definition of Open book pricing. Reference request and commentary in NR XVI.
NR III,5d	JCI		5d is vague and overreaching. Request to be specific now and add additional requirements in the future if needed.
	DEQ	N	In 5a-c, the Dept. has attempted to spell out specific changes that would affect qualifications; however, 5d would give the Department flexibility to consider additional changes to be significant if the circumstances warrant. "Any other matter determined to be necessary" provides a check on the Department's discretion to determine that other changes are significant, because any reviewing body would look to see if it was necessary to fulfill the purpose of the subchapter. If the reviewing body didn't think it was "necessary" it wouldn't be enforceable. A phrase like "including" or "including but not limited to" has no such sidebars and could be challenged as unprincipled and too broad. § 90-4-1111(2) sets out qualifications to be evaluated by the Dept. in admitting an ESP to the list. 2d provides for other factors determined by the Dept. to be considered. § 90-4-1110(1)(b) requires the Dept. to disqualify and remove from the list providers that do not comply with qualifications established. The reason for NR III, 5d is to require ESPs to report changes to the Dept. that could affect whether they are still qualified because the statute allows for flexibility in adding criteria, so should the reporting of any significant changes.
NR IV	JCI		Termination of on-going contract for breach due to ESP delisting could create problems for Entity and ESP.
	DEQ	N	If the ESP has been delisted due to failure of qualifications or for failing to follow requirements of law or rule or agreement, the Entity may consider this a material breach. The Department is required to delist ESPs that are no longer qualified § 90-4-1110(1)(b).
NR IV	UMC		Suggest delisting if ESP changes project pricing or open-book requirements after RFQ that increases their markups, reporting or disclosures.

	DEQ	N	Will consider as disciplinary action based on rule.
NR V, 3	McKinstry, JCI, MACO		Parties concerned about entering into shortfall negotiations that affect on-going work during the initial monitoring period that would result in adjusting equipment to achieve desired performance
	DEQ	N	Additional commentary added to SRN to clarify that the Department's intent of the rule is not to prevent corrective action during the initial monitoring period but rather to avail the Entity with M&V reports before entering into a shortfall negotiation.
NR V, 5	McKinstry, Ameresco, MACO		Dept. is over-reaching by prohibiting signing contracts unless funding is identified and secured. This was also noted to be redundant of NR V subsections 6 and 7.
	DEQ	Y	Section 5 of NR V removed because substantive requirements are found in NR V subsections 6 and 7.
NR V 5, 5a	UMC		Recommend that this be altered to allow Entity to sign an IGA agreement with terms that state that 1) either they implement the full EPC (assuming it meets the minimum requirements outlined in the IGA), in which the IGA and development costs are included in the total EPC; or 2) they agree to pay a negotiated "walk-away" or termination sum for the IGA should they not implement the EPC contract. It should be noted that in many cases the IGA "walk-away" fee is less than the actual cost to develop and execute the IGA. This separation fee must be negotiated and agreed to in the IGA contract.
	DEQ	N	The IGA contract contains language regarding termination and payments if the IGA fails to meet the Entity's requirements. § 90-4-1113(3)(a) requires that the ESP and Entity shall agree on the cost of the IGA before it is conducted and § 90-4-1113(3)(b) requires the Entity to pay the full cost of the IGA if it does not enter into an EPC.
NR V, 8	JCI		Funding contingency – does contingency need to be part of the total project cost as well as the guaranteed maximum price?
	DEQ	N	Affirmative.
NR VI	McKinstry		Delete in entirety.
NR VI, 1	Ameresco		Project phasing is a convenient and desirable method for implementation and should be permitted without the burden of additional RFPs. This section will not increase competition; it will only add costs to the project. Rule reasoning state that EPC offers entities exemptions from "normal" procurement requirements, which may lead to less competition and higher costs. EPC is an allowable contracting tool and is a "normal" procurement allowed by statute. EPC procurement has a built-in regulator on costs as savings pay for improvements. Adding more regulations, RFP requirements, etc. will accomplish the exact opposite of increasing competition. ESCO's will not work in Montana with the added regulatory requirements having the exact opposite effect. Suggest deleting this section completely.
NR VI, 1	MACO		Intent of engaging services of an ESP is to utilize their expertise to develop a proposal to save money by improving energy efficiency. Telling an entity that they need to have a fully developed list of

			facilities prior to RFP assumes the entity has a comprehensive understanding of the efficiency improvements needed within their facilities. And believing that an entity will know what improvements to target in the RFP is also presumptuous. We would give recommendations to counties to include all buildings, but requiring it in rule is ultimately limiting and assumes the interested entity knows what they need. If DEQ wants to develop a model RFP that is generic enough to cover the unknown or unforeseeable projects that may result from a comprehensive IGA, we welcome that guidance.
NR VI, 1	Meeting Notes		Nothing prevents an ESP from going to the client and offering better services than the existing ESP.
NR VI, 1	UMC		Recommend that this be amended or modified to allow for more flexibility in outlining the potential for an RFP to be expanded to other ECMs (CSMs). This can include a list of potentially allowable measures that the scope can ultimately include. This is because as an integrated design-build process, the final scope may take months to identify, develop and finalize.
	DEQ		The model RFP document proposed by the Department provides sufficient guidance for the Entity in developing project scope as it relates to identifying facilities. The RFP is not intended to limit the improvements to be considered as the IGA is to look at all feasible cost-saving measures. The Department recommends that the Entity includes all facilities in the scope and then identify the facilities for the initial phase. The ESP also has the opportunity to ask the Entity about other facilities prior to submitting their proposal. The EPC may be completed in phases, such as by facility or by cost-saving measure(s). This rule is not intended to impact the EPC, other than the ESP must remain qualified.
NR VI, 3	MACO		Likes 5 year limit
NR VI, 3	MSU		Eliminate the 5 year rule as executing EPCs can take many years and are often done across several phases, often requiring scope changes to take place within the 5 year limit. Requiring a new RFP process, or a “wait period” for these scope changes would significantly increase the EPC process timeline, increase the manpower required by the Entity and increase cost of the EPC process for the Entity.
	DEQ	N	The five year limit is proposed as a time frame for initiating EPC services, much like the IDIQ process for Federal projects. The Department recognizes that the EPC process may take years from initiation through completion, particularly if there are multiple phases. This rule is not intended to interrupt the EPC process or limit the ability of the Entity to enter into an EPC after the 5 years has expired. To better describe how the rule applies, the Department added clarification language to SRN to limit the ESP from signing a new IGA contract, or signing an amendment to an existing IGA contract, to include additional facilities after five years have passed from the issuance of the RFP. The Entity may enter into

			an EPC at any time following the completion and acceptance of the IGA.
NR VI, 4	Ameresco		Suggests deleting this section completely. Using excess savings from previous project phases allow entities to capture the full benefit of EPC.
NR VI, 4	JCI		Can't use phase I savings for phase II? This is a big problem and should be removed. I will need to suggest new language for this. How do we define contracts, phases, change orders?
	DEQ	Y	The statute is clear that the guaranteed cost savings must meet or exceed any financing repayment obligation each year of a finance term (§ 90-4-1102(1). Under § 90-4-1113(1) the IGA must be incorporated into an EPC. Also, § 90-4-1114(1) states that a governmental entity may pay for an energy performance contract with funds designated for operating costs, capital expenditures, utility costs, or lease payments. These items in statute set certain parameters used in this rule. The IGA is expected to be a comprehensive audit and analysis of the facility. It is not a lighting audit followed by an HVAC audit followed by another audit. The purpose is to identify and evaluate all feasible cost saving measures. The results of the IGA are then used to develop the EPC. It is at this point that the project may be broken down into phases, such as lighting, HVAC, etc., for one or more facilities in accordance with the Entity's improvement plan and budget. This process would not preclude the use of savings from one phase to be used in another phase as the total savings would have been identified in the IGA. In addressing the comments from both the entities and the ESPs, the Department will modify this rule. The risk and responsibility will fall to the ESP and the Entity as to the contract provisions – phasing, amendments, change orders and similar modifications. The Entity will need to state what excess savings are applied to these modifications. However, these funds are not likely to be considered as a buy-down. All EPC projects begin with an IGA which includes baseline energy use; projects completed prior to the IGA are included as the baseline. Therefore savings from projects or actions taken prior to the IGA may not be included with an EPC.
NR VII	JCI		M&V written consent for stipulated. a. The EPC contract will state the conditions of the M&V contract. Why do we need additional rules regarding timing, payments, etc. b. Statute is very specific and restricting. Why do we need additional rules? By creating a statute that forces ESCOs to pay for many years of M&V work if they have even a $100 shortfall, the State is discouraging the very thing that

			they would like to see more of, strong savings guarantees backed up by meaningful M&V protocols. I am not likely to be optimistic about savings and back it up with Option C M&V. The costs of even a minor shortfall are too great.
NR VII	DEQ	Y	The IPMVP and FEMP M&V Guidelines require measurement of at least one key parameter for M&V. Under this protocol, there is no option for "stipulated" where no measurements are made and all variables are estimated. Statute also defines M&V as including measurement before and after an EPC is implemented (§ 90-4-1102(10)). These are central to this rule. The rule requires measurements but allows for some stipulated values with written consent of the Entity. The Department proposes eliminating (7) of this rule; the deadlines for reporting and payment of any shortfalls would be moved to mandatory language in the contract. The statute requires the ESP to pay for M&V in addition to any shortfall payments under §§ 90-4-1114(5)(b) and (6)(a). While this may reduce the amount of guaranteed cost savings and thereby the project size, it also ensures the Entity that the guaranteed cost savings are more likely to be realized. Again, it is the responsibility of the ESP to meet its guarantee.
NR VII	Ameresco		Add section 8: ESP may negotiate with Entity to make additional energy investments or equipment modifications to reduce future shortfalls and associated shortfall payments.
	DEQ	N	The Department will consider adding a section 8 as requested. However, this may be unnecessary in the rules process. It should be the responsibility of the ESP to work with the Entity and take any corrective action necessary to ensure that the guaranteed cost savings are met.
NR VIII	Ameresco		Suggestion to add – "for each year of the initial monitoring period" in NR VIII, b.
	DEQ	Y	All M&V costs related to the EPC project must be included as part of the total project cost. Inserting this phrase is inappropriate. Inserted the word "total" prior to "cost of M&V" to meet the intent.
NR VIII	JCI		Does the 3-yrs of M&V roll into the total project cost?
	DEQ	N	§ 90-4-1114 5a states "the costs for M&V must be included in the EPC contract."
NR IX	JCI		Good rule – defines and clarifies statute.
NR IX	UMI		Can "capital cost avoidance" be used in EPC?
	DEQ	N	There is no provision for this in statute. § 90-4-1114, 3b uses the term "useful life" rather than "service life" although the manufacturer doesn't list equipment under "useful life". If capital cost avoidance is for equipment that has not reached its service life, only commodity might be considered to be allowed by the Dept.; however there is no guarantee that the equipment will actually meet its manufacture listed service life (e.g. maintenance is unknown), the Dept. would monitor project data over the next 3-

			5 years and consider this option if it is supported by project data in the future.
NR X	JCI		Notification is completely justified given the Department's need to build a database of these projects and help guide the program. However why does this rule not align with the base agreement regarding ESP duties.
	DEQ	Y	The Department will revise the base agreement regarding the ESP's reporting requirements to match rule.
NR X	JCI		This rule is unclear regarding whether a formal go-ahead by the Department is required before signing [contracts]. Often these projects are timing critical and need board approval before moving forward meaning summer or other seasonal projects may be held up if there are delays. [We] suggest language that would explicitly state that "The ESP and Entity may proceed with contract document execution if feedback has not been received by [from] the Department within two weeks."
	DEQ	N	The Department does not list any approval requirements in the proposed rule. Therefore no formal go-ahead is required.
NR X	JCI		It might not be a bad idea to request that ESP and Entity review all statutes and rules before entering into a contract. This is good ESP policy regardless.
	DEQ	N	The Department requires ESPs to be knowledgeable and to follow statute and rules as adopted by the Department. This requirement is reflected in NR IV (Disciplinary Action) and the Base Agreement.
NR X 3a, 3b	JCI		[This proposed rule will] Require unnecessary documentation and steps that add to the complexity of the project. The same information will be contained in the EPC contract.
	DEQ	N	Since the Department does not require the EPC contract unless requested, the Department needs an alternative form that summarizes this information. The Department provides the project summary forms to expedite project monitoring and to maintain consistent reporting requirements to the Department from all ESPs.
NR XI	McKinstry		Request to delete entire O&M rule. The ESP doesn't want O&M costs to be included in the EPC contract.
NR XI	Ameresco		Request to delete subsection 1
	DEQ	N	The Department requests these ESPs to provide a reason why O&M costs should not be included in total project cost and to identify what those costs may be.
NR XI	UMC		It is recommended that if O&M or "operational" savings are used in savings calculations in an EPC, these must be "hard dollar" savings only – savings that are fully audited and verified. Under no circumstances should soft-dollar savings, stipulated savings or in-house agency labor savings be allowed. These hard dollar savings must be fully disclosed, verified and guaranteed in the EPC. In addition, these savings must be verified for an acceptable term – typically within the term of warranty to guarantee there are

			no risks of accrued service and repair costs.
	DEQ	N	Under § 90-4-1102(11) O&M cost savings must be measurable as a direct result of cost-saving measures calculated using baseline O&M costs. The term does not include the shifting of personnel costs or similar short-term cost savings that cannot be definitively measured. Department thinks that this approach is already embodied in the statute cited.
NR XII	JCI		This is fair. A project with a one year term is not an EPC.
	DEQ	N	Affirmative.
NR XIII	McKinstry		Delete entire rule.
NR XIII	JCI		Lots of problems.
NR XIII	MACO		Initial response is to delete the rule in its entirety as it views DEQ as requiring the Entity to incur debt through outside financing. Need definitions for "finance" and "finance term". Recommend use of "payback period" to define how guaranteed savings will recover the costs of the project.
	DEQ	Y	Statute defines "finance term" as the length of time for repayment of funds borrowed for an energy performance contract. This implies a definition of "finance" as funds borrowed for an EPC. Financing does not identify the source of funds – whether internal or through a third party. It only implies a repayment requirement. As part of our review process, the Department considers "payback period" as a general determinant of cost effectiveness. Department changes: Amended (1) and deleted (4).
NR XIII	UMC		Allow financing to be between Entity and ESCO.
	DEQ	Y	See other Department responses.
NR XIII, 1	Ameresco		Define "Finance". EPC not solely defined by amount financed. Suggest "(1) For a project to qualify as an EPC the project should produce measurable energy savings."
NR XIII	McKinstry		Delete financing as a criterion for EPC.
NR XIII	MSU		Remove this rule. Proposed rule limits the Entity's ability to utilize the EPC process. Entities should maintain the flexibility to fund EPC projects with sources most appropriate and available for each Entity. They should not be required to finance 60% or more of the total project cost.
	DEQ		Additional Department commentary: About the only place in Montana statute that "finance" or "financing" is defined is in § 27-5-1503 (Economic Development Bonds) where "Finance means to supply capital and, in the case of agricultural enterprises, to refinance a project and project costs." Financing mechanisms vary as they may be internal (self-financing) or external (third party). The statement suggested by Ameresco, although similar to statute requirements, is unacceptable as it sets no boundaries. This statement would imply that a million dollar project that includes changing one light bulb as its only energy saving measure would qualify as an EPC. This is not the intent of EPC.

			§ 90-4-1110 (3)(a) states that the Department may adopt rules establishing criteria for the amount of project costs covered by guaranteed cost savings. Addressing the comments regarding (1) and financing, the Department proposes revising the language to reflect that the guaranteed cost savings over the term of the EPC must meet or exceed 51% of the total project cost. This will not supersede the requirements of cost-effectiveness or other requirements in statute or rule.
NR XIII, 2	Ameresco		Delete all but the first sentence.
NR XIII, 2	various		Guaranteeing a utility incentive is problematic. Utilities will require information at the end before they commit. Discussion on if and how to include utility incentives in guaranteed cost savings. Open to a better solution, but unclear what that is at this point; shared risk.
	DEQ		If the ESP includes the utility incentive as a buy-down in the cash flow analysis, it implies that the Entity will finance a lower portion of the total project cost. A statement in rule is likely necessary. The EPC should also contain language regarding the incentive, to whom it is paid, how it impacts the project cost/financing, and what happens if the incentive differs from the ESP's estimate. Incentives may also be included in the Risk, Responsibility and Performance Matrix which is also part of the EPC contract. This will help clarify the impact of the incentive.
NR XIII, 3	Ameresco		Delete "Any unused contingency may not be applied to a buy-down" as this takes away from local control and financial management.
	DEQ	N	A buy-down is defined as funds used to reduce the amount financed. Contingency funds may be included in the financing or may be capital funds of the Entity. In either case, these funds are not fully expended until the end of the project. As such, any unused contingency funds are unknown at the time of financing and would be unavailable to reduce the amount financed – therefore not a buy-down by definition. The contingency funds, if allocated outside of financing, have already reduced the amount financed. This rule does not impinge on the local control or financial management of the Entity as the unused contingency may be used for other aspects of the project, such as M&V or payment toward reducing the principal of the financing.
NR XIII	McKinstry		Use bond funds for buy-down.
NR XIII	DEQ	N	A buy-down is to reduce the amount financed that needs to be repaid. Bond funds are obligations that need to be repaid, therefore cannot be used as a buy-down as defined. The bond funds would also need to be included in determining the cost-effectiveness of the EPC, which may further limit the qualification of the project as an EPC.
NR XIII	JCI		Suggested language regarding capital contribution: "Operating or other funds may be used on an annual basis throughout the term of the contract to buy down the debt. These funds must be identified in the EPC by the ESP before project execution."

NR XIII	DEQ	N	§ 90-4-1114(1) states that a governmental entity may pay for an energy performance contract with "(a) funds designated for operating costs, capital expenditures, utility costs, or lease payments" in addition to bonds, installment payment contracts, lease-purchase agreements, and third party financing. § 90-4-1109 states that, except as provided in §90-4-1114 (1), payment obligations are not general obligations of the entity and are collectible only from guaranteed cost savings provided in the EPC and other revenue, if any, pledged in the EPC. The suggested language generally follows statute, but it is unclear how the use of these funds will buy down the debt, thereby reducing the amount financed.
NR XIII, 3	UMC		As it is impossible for an ESCO to verify exact utility incentives, rebates, grants, pass-through tax credits, etc., at the onset of a project of EPC contract, I recommend this be altered. It should say that a good-faith estimate of projected incentives, etc. will be provided, but that no binding debt be issued against non-guaranteed funds. Rather a list of "add-alternatives" be provided in the agreement allowing for their implementation with the receipt of additional funds. In most (if not all) cases ESCO will not want to take on the risk for unverified rebates and incentives.
	DEQ	Y	After first determining total project cost, then the amount of utility incentives and other funds can be applied (including a buy down). There are two options for any funding sources that are not secure at the time of the contract signing: 1) The ESCO can use engineering design practices to determine the amount of the potential funding and the risk that that funding doesn't become available. 2) The ESCO can establish the project size based on excluding these funds and adding alternatives as part of their contract to utilize funds that were not secure at the time of signing the EPC. The Department sees merit in both approaches so long as the ESCO only uses one of the two approaches in an EPC contract and the ESCO fully discloses the approach selected and risks to the Entity at the time of signing the EPC. The Department doesn't view this as a rule change, but will add commentary to the SRN.
NR XIII, 4	DEQ	Y	Since the cost of M&V is included in the total project cost, it would be overreaching for the Department to specify how the Entity should pay for M&V. The Department proposes deleting section (4).
NR XIII, 5	DEQ		No comments made for this item. Review with Dan Semmons
NR XIV	Mutual response from ESPs		Request to strike this rule and replace with no new construction allowed in EPC, unless the new construction was integral to a cost savings measures (such as a central plant).
	DEQ	N	This rule also addresses change of use. Since the rule as written integrates new construction with change of use, the Dept. proposes to leave the rule as proposed.
NR XV, 1a	Ameresco		Suggest "except where another escalation rate is clearly more appropriate for a particular utility or fuel" or 1b "if the rate escalator

			does not provide an escalation rate for the fuel type".
	DEQ	N	The Department selected the FERC EERC tool for escalation rates to standardize escalation of commodities. Some utilities want to keep their projected commodity escalation rates confidential. The Department questions what other sources would be standardized or reliable and what other commodities, not in the EERC tool, the ESP would want to escalate? E.g. biofuels, propane. Also the Department questions who would define "clearly more appropriate"? ESC reports that the maximum escalation rates computed in the EERC tool are high relative to actual rates.
NR XV	JCI		Good for the industry to have guidance on this; however in many cases the entity knows more about their local utility and likely escalation than the Department, the ESC or the EERC. Every one of these rules if not removed should end with "unless agreed to by the entity." Also if a local utility has published rate escalations (e.g. 5% per year for the next 3 years), it should be allowable to include those rates in the cash flow.
	DEQ	N	Escalation rates must be extrapolated over the maximum financing period of 20 years and should be consistent for all projects. While no data source will be 100% reliable, FERC data serves as a standard that will provide consistency to all projects.
NR XV, 7	JCI		Are escalation rates are applied to shortfalls?
	DEQ	N	Yes. See Department comment below.
	JCI		This rule highlights that ESCOs will pay for escalation risk; if utilities don't escalate as much as we anticipate we pay the short fall based on the actual utility cost, not the escalated rate from the contract.
	DEQ	N	§ 90-4-1114, 6a states, "The amount of cost savings achieved during a year must be determined using the mutually agreed on baseline rates referenced in guaranteed cost savings and any unguaranteed energy cost savings attributable to utility unit price escalation rates allowed pursuant to rules adopted by the department pursuant to 90-4-1110(3)(d)."
NR XVI	McKinstry		Request to delete entire rule because no value is provided with open book pricing.
	DEQ	N	Open book pricing is standard practice. At the time of pricing the EPC, there is only one ESP involved. For the Entity to be able to control costs it is important for it to know what the maximum guaranteed price will be and what markups for overhead and profit will be. When the project is completed, the Entity will be able to determine that the project was paid for according to actual costs and those agreed upon markups. Open book pricing accomplishes these purposes and is appropriate.
NR XVI, 1	Ameresco		Open book pricing is not clearly defined. Suggest ESP shall provide to the Entity in an IGA and an EPC a pricing breakout that fully discloses all project costs in a pricing table format provided by the Dept.

	DEQ	Y	Define open book pricing… e.g. Wikipedia defines open book pricing as a contract for goods or services in which 1) the parties define the costs to be paid and 2) the markups that the supplier [ESP] may add to these costs. The project is then invoiced to the customer [Entity] based on the actual costs incurred plus the agreed markups. The Department is proposing to define open book pricing in NR I. The pricing table (the cost and pricing tool) as currently proposed by the Dept. is only a portion of open book pricing. It covers percent markups, profit, and total cost of each category. Other aspects such as actual expenses for price of equipment and labor are not included in the tool. Open book pricing must include actual costs expended. This is intended to protect the interests of the Entity. Additionally there is more information provided in the contract information regarding open book pricing.
NR XVI, 3	DEQ	Y	Amended proposed rule to allow Entity review time after initial monitoring period as follows: […ESP shall preserve records for] ~~three years after issuance of the implementation COA.~~ <u>one year after the initial monitoring period.</u>
NR XVI, 4	Several ESPs		Request to strike subsection 4. Reason provided was burdensome of ESP and an unnecessary cost increase to project.
	DEQ	Y	NR XVI, 4, struck as requested.
NR XVI, 6	Ameresco		Request replacing “detailed report describing all costs being billed” with “a schedule of values for the project and a completion percentage for each project component.”
	DEQ		Dept. may replace “detailed report describing all costs being billed” with an alternate. However with guaranteed maximum price the ESP must provide actual costs for equipment, shipping and labor. The purpose of open book pricing is to allow the Entity to verify all costs associated with the project. Dept. would consider replacing “detailed report” with “itemized listing.” No description of reason for change provided by ESP.
NR XVI	UM		We understand and agree with the intent of this rule but also appreciate of the ESPs to conceal certain aspects of their business in order to protect their competitive edge.
	DEQ	N	Open book pricing is between the ESP and the Entity. The Entity has the right to review all costs associated with the project. Open book pricing is not intended to be open to other parties.
NR XVI	UMC		Open-book pricing should be simple, easy to understand and fully transparent. A simple cost-plus model with simple OH&P percentage markups to a GMAX project cost and open contingencies. Risk should be openly disclosed and appropriate contingencies assigned.
	DEQ	N	The Department agrees and will review comments regarding open book pricing.